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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,506	10/16/2000	Monika Boecker	H 3296 PCT US	8422

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/622,506

Applicant(s)

BOECKER ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/16/00.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. Claims 16-17, 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16 and 17 are dependent upon a cancelled claim.

Claims 20-22 are indefinite because the ranges of the nonionic surfactant proportions are not consistent. Shouldn't the range of claim 20 read on "0.2 to 8% by weight" as specified on page 4, last line, so that claims 21 and 22 would properly depend from it?

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 15, 17-19, 26, 28, 32, 33, 34, 35, 40 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Wisotzki et al. (US Patent No. 4,775,424), hereinafter "Wisotzki".

Wisotzki teaches a tablet for disinfecting and cleaning contact lenses comprises 1 mg of C₈-C₁₀ alkyl glucoside with $x=1.8$, 2 mg of nonionic surfactant consisting of the reaction product of 1 mole of a C₁₂-C₁₄ fatty alcohol mixture and 9 moles of ethylene oxide etherified with 1 mole of butyl alcohol and 0.13 g of citric acid (about 7.6 wt%) (see Example 11 in col. 7, lines 61-68). Wisotzki teaches the limitations of the instant claims. Hence, Wisotzki anticipates the claims.

4. Claims 15-18, 20-34, 40, 43-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmid et al. (US Patent No. 5,939,372), hereinafter "Schmid".

Schmid teaches a toilet block comprising 25 wt% SULFOPON® LS 35, a C_{12/14} coconut oil fatty alcohol 2EO sulfate Na salt; 6 wt% PLANTAREN® APG 600, a C_{12/14} coconut oil alkyl oligoglucoside (DP =1.3); 6 wt% DEHYDOL® TA 25, a tallow alcohol 25EO adduct; and 7 wt% sodium citrate (see Example F1 in Table 1 in col. 7, lines 20-52). Schmid also teaches a toilet block comprising 25 wt% SULFOPON® LS 35; 3 wt% glucamide, a C_{12/14} coconut oil fatty acid N-methyl glucamide; 3 wt% DEHYDOL® TA 25, a tallow alcohol 25EO adduct; and 5 wt% sodium citrate (see Example F4 in Table 1 in col. 7, lines 20-52). Schmid teaches the limitations of the instant claims. Hence, Schmid anticipates the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wisotzki as applied to the above claims.

Wisotzki teaches the features described above. Wisotzki also teaches other nonionic surfactants like adducts of ethylene oxide and propylene oxide with fatty alcohols (see col. 2, lines 30-37). Wisotzki, however, fails to specifically disclose a tablet wherein the nonionic surfactant is a mixed-alkoxylated alcohol like ethoxylated and propoxylated alcohols.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate adducts of ethylene oxide and propylene oxide with fatty alcohols as the nonionic surfactant because the teachings of Wisotzki encompass this compound.

9. Claims 15-18, 20-28, 32-37, 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raehse et al. (US Patent No. 5,382,377), hereinafter "Raehse".

Raehse teaches detergents in the form of portioned pressings like tablets (see abstract), which comprises surfactants, builders (see col. 10, lines 31-38) and surfactant-based plasticizers and/or lubricants in quantities of not more than 12% by weight, more particularly 0.5 to 10% by weight, based on the mixture as a whole, for example, mixtures of alkyl polyglycoside:ethoxylated fatty alcohol:water in a ratio of 0.5-1:1-1.5:1 (see col. 3, lines 24-35; 65-68; col. 4, lines 1-2). The alkyl polyglycoside (APG) corresponds to the general formula $RO(G)_x$ in which R is a primary, saturated or 2-methyl-branched aliphatic radical containing 8 to 22 and preferably 8 to 18 carbon atoms, G is a symbol which stands for a glucose unit containing 5 or 6 carbon atoms and the degree of oligomerization x is between 1 and 10 (see col. 3, lines 59-65). Disintegrating agents which promote the disintegration of the portioned pressings include methyl cellulose or hydroxypropyl cellulose in quantities of 5 to 10% by weight (see col. 9, lines 31-44). The ethoxylated fatty alcohol are adducts of 1 to 40 mol ethylene oxide with 1 mol of an

aliphatic compound containing 10 to 20 carbon atoms (see col. 11, lines 15-25). Raehse, however, fails to specifically disclose a portioned pressing wherein the proportions of the alkyl polyglycoside and ethoxylated fatty alcohol are within the bounds presently claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the alkyl polyglycoside and ethoxylated fatty alcohol in through routine experimentation for best results. As to the optimization of results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness, see *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

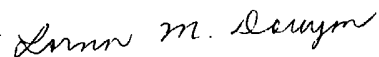
10. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. The reference is considered cumulative to or less material than those discussed above.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571)-272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571)-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lorna M. Douyon
Primary Examiner
Art Unit 1751